IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 22 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VORA JADIBEN MADHAVJI

Versus

PUSHPABEN LALITKUMAR VORA & ANOTHER

Appearance:

MR TS NANAVATI for Petitioner

MR MJ BUDDHBHATTI for Respondent No. 1

MR BY MANKAD ASST.PUBLIC PROSECUTOR for Respondent No. 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 03/03/2000

ORAL JUDGEMENT

Petitioner-Jadiben Madhavji Vora is the mother-in-law and respondent no.1 -Pushpaben Lalitkumar Vora is her daughter-in-law. The petitioner made an

application on 8th July, 1988 in the Court of Judicial Magistrate, First Class, Rajula (Criminal Misc. Application No.59 of 1988 under Sec.94 of Criminal Procedure Code, 1973 and prayed for issuance of a Search Warrant alleging that the respondent no.1 who was the daughter-in-law had illegally and without her consent taken away the moveable articles listed in the complaint. The learned Magistrate issued a Search Warrant on the same day and on 15th July, 1988, he passed further order to divide in equal portion between the parties the moveable articles which had been seized in execution of the search warrant. Being aggrieved by the said order, the respondent no.1 filed Criminal Revision Application No.57 of 1988 in the Court of the learned Sessions Judge, Amreli. By the judgment and order dt.6th December, 1989, the learned Sessions Judge, Amreli allowed the said revision application and set aside the order of the learned Magistrate issuing search warrant and directing the utensils to be divided in equal proportion between the parties and ordered that the articles which had been attached by the Police be restored to the custody of the respondent no.1.

2. The petitioner thereupon filed the present Special Criminal Application under Art.227 of the Constitution challenging the order of the learned Sessions Judge, Amreli. The present petition was filed on 11th January, 1990. It appears that, in the meantime, the learned Magistrate had disposed of the proceedings pending before him on 6th December, 1989 directing the articles to be returned to the respondent no.1 pursuant to the order passed by the learned Sessions Judge in the revision application. The petitioner, therefore, prayed for and was granted interim relief in this petition restraining the respondent no.1 from transferring the articles in question.

3. I have gone through the judgment and order passed by the learned Sessions Judge in Criminal Revision Application. The learned Judge had come to the conclusion that the learned Magistrate had not taken into consideration the conditions prescribed in Sec.94 of the Code before issuing the search warrant and that the search warrant had been illegally issued by the learned Magistrate. In my opinion, he has not committed any error in arriving at the said conclusion, and hence there is no warrant for interference in exercise of jurisdiction under Art. 227 of the Constitution. The petition is, therefore, dismissed. Interim relief stands vacated. Rule discharged.

Date:03-03-2000. ------
ccshah